

REMARKS/ARGUMENTS

Reconsideration of this Application and entry of this Amendment is respectfully requested. Upon entry of the foregoing amendment, claims 22-32 are pending in the application, with 22, 26 and 30 being the independent claims. Claims 22, 23, 26 and 30 have been amended. Claim 32 has been added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections Under 35 U.S.C. §102

Claims 22-27 and 29 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,295,962 to Crocker *et al.* With reference to independent claim 22, the Examiner states that Crocker discloses a catheter body having at least two lumens, an outer balloon (32) disposed near the distal end of the catheter body and having fluid delivery ports, an inner balloon (30) disposed on the catheter body within the outer balloon, wherein the “catheter [is] fully capable of expansion of the inner balloon [to] expel fluid within the outer balloon outwardly toward the delivery ports.” Office Action, p. 3. With reference to independent claim 26, the Examiner states that since the order of steps in method claim 26 are not specified that Crocker discloses the method thereof.

Claims 22-29 have also been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,785,679 to Abolfathi *et al.* With reference to independent claim 22, the Examiner states that the embodiment of Figure 6 of Abolfathi discloses a catheter body having at least two lumens, an outer balloon (86) disposed near the distal end of the catheter body and having fluid delivery ports, an inner balloon disposed on the catheter body within the outer balloon, wherein the “catheter [is] fully capable of expansion of the inner balloon [to] expel fluid within the outer balloon outwardly toward the delivery ports.” Office Action, p. 4. With reference to independent claim 26, the Examiner states that since the order of steps in method claim 26 are not specified that Abolfathi discloses the method thereof.

Independent claims 22 and 26 have been amended to address the Examiner's rejection thereof. Claim 22 now recites that the inner balloon is “comprised of an elastomeric material”. Crocker does not teach or suggest an inner balloon comprised of an elastomeric material.

Instead, Crocker discloses that inflation balloon (30) comprises a relatively non-elastic material, such as linear low density polyethylene, polyethyleneterephthalate, nylon, and polyester. Crocker, col. 6, lines 48-53; FIGS. 1, 3, 5 and 7. Further, claim 22 is patentable over Abolfathi as that reference does not disclose “an inner balloon disposed ... *within* [an] outer balloon” or that the inner balloon is comprised of an elastomeric material. (Emphasis added). “Within” as defined in Webster’s American College Dictionary (1998) means “1. in or into the interior of or the parts or space enclosed by [or] 2. inside of, in.” *Id.* at 903. As shown in FIG. 6 of Abolfathi and described in the specification, balloon apparatus (80) comprises a hollow balloon catheter structure “*on which* a spiral porous balloon [86] *is mounted.*” Abolfathi, col. 8, lines 32-36; FIG. 6. Accordingly, balloon apparatus (80) is not disposed *within*, *i.e.*, into the interior or inside of, spiral porous balloon (86). As such, claim 22 is not taught or suggested by either Crocker or Abolfathi, and is patentable over the references. Claims 23-25 and 32 depend from and add further features to independent claim 22 and are patentable over the references for this reason alone. While it is not necessary to address the Examiner’s rejections of claims 23-25 at this time, Applicants reserve the right to support their patentability, when necessary.

Claim 26 has been amended to indicate the order in which the method steps are to be performed. As the Examiner apparently recognizes, neither Crocker nor Abolfathi operates to deliver a fluid by the sequence of the claimed method. In Crocker, inflation balloon (30) is used to inflate delivery balloon (32) against the vascular wall and then medication is infused into delivery balloon (32) and out of ports (40). Crocker, col. 16, lines 46-63; FIGS. 1, 3, 5 and 7. In Abolfathi, balloon apparatus (80) is first pressurized to exclude an aneurysm from blood flow and then a hardening agent is introduced into a cavity of the aneurysm via the porous spiral balloon. Abolfathi, col. 8, lines 43-55. As such, claim 26 is not taught or suggested by either Crocker or Abolfathi, and is patentable over the references. Claims 27-29 depend from and add further features to independent claim 26 and are patentable over the references for this reason alone. While it is not necessary to address the Examiner’s rejections of the dependent claims at this time, Applicants reserve the right to support their patentability, when necessary.


Objection to Claims 30 and 31

Claims 30 and 31 are objected to as being dependent on a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Applicants appreciate the Examiner's indication of allowable subject matter and have rewritten claim 30 as an independent claim to include the features of claims 26 and 29, with claim 31 remaining dependent therefrom. As such each of the claims is now in condition for allowance.

CONCLUSION

For the foregoing reasons, Applicants believe all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 566-1888.

Respectfully submitted,

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